IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 5TH FEBRUARY 2007 / 16TH MAGHA 1928

WP(C).No. 24474 of 2005(L)

PETITIONER:

BUSHRA P.K., D/O. P.K. MOHAMMED,
CHAMAKKARAYIL HOUSE, PERUMUGHAM P.O.,
FEROKE, KOZHIKODE DISTRICT.

BY ADV. SRI.K.T.SHYAMKUMAR

RESPONDENTS:

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1. **THE DIRECTOR OF HIGHER SECONDARY EDUCATION, DIRECTORATE OF HIGHER SECONDARY EDUCATION, HOUSING BOARD BUILDING, THIRUVANANTHAPURAM.**

2. **THE DISTRICT EDUCATIONAL OFFICER, KOZHIKODE.**

3. **THE MANAGER, FAROOK HIGHER SECONDARY SCHOOL, FAROOK COLLEGE P.O., KOZHIKODE DISTRICT.**

BY ADV. DR.K.B.MUHAMED KUTTY (SR.)
SRI.K.M.FIROZ
BY GOVT.PLEADER SRI. A.J. VARGHESE for R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE APPOINTMENT ORDER ISSUED BY THE 3RD RESPONDENT DTD. 08/08/2001.

EXT.P2: COPY OF THE JUDGMENT DTD. 22/01/2003 IN W.A.NO.2245/2002.

EXT.P3: COPY OF G.O.(MS) NO.199/2003/G.EDN. DTD. 24/07/2003.

EXT.P4: COPY OF THE ORDER DTD. 25/10/2003 ISSUED BY THE 3RD RESPONDENT TERMINATING THE SERVICE OF THE PETITIONER.

EXT.P5: COPY OF THE JUDGMENT DTD. 14/11/2004 IN W.A.NO.1927/2004.

EXT.P6: COPY OF THE REPRESENTATION DTD. 11/12/2004 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT.

/TRUE COPY/

Kss

K.M.JOSEPH, J.

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WP.(C) No.24474 OF 2005

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Dated this the 5th day of February, 2007

JUDGMENT

Case of the petitioner in brief is as follows:

She was appointed as Higher Secondary School Teacher (Chemistry) on 8.8.2001. The Government issued an order stating that qualified teachers without SET who were appointed during the period between 14.2.2001 and 12.11.2001 and continuing as on the date of the Government Order should be terminated. Petitioner came to be terminated from service based on the said Government Order. However the clause in the said Government Order came to be quashed by this court and it was declared that Non-SET qualified teachers who were appointed during that period were entitled to approval of their appointment. Petitioner immediately represented to reinstate her. But the Manager was not prepared to do so. Petitioner has approached this court for a declaration that in view of Ext.P5 judgment petitioner is entitled to be reinstated in service with all service benefits from 8.8.2001 and also for a direction commanding the third respondent to reinstate her as Higher Secondary School Teacher (Chemistry) with all

service benefits from 8.8.2001. There is an interim stay of appointment to the post of Higher Secondary School Teacher (Chemistry).

2. Today, when the matter came up, learned counsel appearing on behalf of the third respondent submitted that petitioner has already been appointed. It is submitted by counsel that approval of the appointment of the petitioner has not been given. Learned counsel for the petitioner would submit that petitioner is actually entitled to approval from 8.8.2001. Anyway a decision has not been taken on the question of approval. In such circumstances, I feel that in view of the fact that petitioner has already been appointed, the questions regarding the approval of the petitioner and the date from which approval is to be granted are matters to be decided by the Director when the question of approval is taken up by the Director in accordance with law.

Therefore leaving open the contention of the petitioner that she is entitled to appointment with effect from 8.8.2001, the writ petition is disposed of directing that when the Director takes up the question of approval, the question as to whether the petitioner is entitled to appointment from 8.8.2001 and whether he is entitled to notional

appointment be considered. A decision will be taken by the Director in accordance with law on the question of approval with notice of hearing to the petitioner and the Manager, within a period of two months from the date of receipt of a copy of this judgment.

(K.M. JOSEPH, JUDGE)

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K.M.JOSEPH, JJ.

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W.A. No. OF

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JUDGMENT

Dated this the day of February, 2006.